



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 34250618

Date: NOV. 5, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a jiu-jitsu athlete, seeks classification as an individual of extraordinary ability. See Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner qualifies as an individual of extraordinary ability either as the recipient of a one-time achievement that is a major, internationally recognized award, or as someone who initially satisfied at least three of the ten required regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the [noncitizen] has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the [noncitizen] seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the [noncitizen's] entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner, a jiu-jitsu athlete, has competed in national and international jiu-jitsu competitions. The Director determined that the Petitioner is not the recipient of a one-time achievement that is a major, internationally recognized award, and the Petitioner does not contest this determination on appeal. As such, the issue to be addressed in this matter is whether the Petitioner established that he satisfied at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i) – (x). The Petitioner claims that he meets the elements of four of these criteria, which are summarized below:

- (i), Recipient of lesser nationally or internationally recognized prizes or awards;
- (iii), Published material about the Petitioner;
- (iv), Participation as a judge of the work of others; and
- (v), Original contributions of major significance.

The Director determined, and we agree, that the Petitioner provided sufficient evidence that he was a recipient of a lesser nationally or internationally recognized award, thereby satisfying the criterion at 8 C.F.R. § 204.5(h)(3)(i). The remaining issue is whether the Petitioner satisfied at least two of the three remaining criteria at 8 C.F.R. § 204.5(h)(3)(iii) – (v). We find that he did not and will address two of these criteria in the discussion below.

### A. Evidentiary Criteria

First, we will address the criterion at 8 C.F.R. § 204.5(h)(3)(iii), which requires evidence of published material about the Petitioner in professional or major trade publications or other major media. In denying the petition, the Director acknowledged the Petitioner’s submission of published articles about him in Jits Magazine and gracie.com. However, the Director pointed out that Jits Magazine no longer

exists after only 25 editions, and further highlighted gracie.com's low ranking and visitation statistics as an indication that the website does not fall within the category of major media.

On appeal, the Petitioner provides a letter from [ ] who identifies himself as the head instructor and owner of [ ] in California and who recognizes Jits Magazine and Gracie Magazine for their "significant impact." Although Mr. [ ] claims that both publications "have been instrumental in promoting and advancing the sport of Jiu-Jitsu" and are "highly respected within our community," the Petitioner provides no evidence on appeal to address the Director's adverse findings, which highlight one publication's demise and the other publication's low ranking and visitation statistics. As such, the Petitioner has not overcome the Director's adverse determination regarding this criterion.

Next, we will address the criterion at 8 C.F.R. § 204.5(h)(3)(v), which requires evidence that the Petitioner made an original contribution of major significance. Although the Director acknowledged a recommendation letter that describes the Petitioner's role as creator of a police training program, the Director noted that no evidence was submitted to show that the program was taught outside the specific business where the Petitioner taught the program or that the program is used by other law enforcement centers and that it is considered authoritative within the industry. Ultimately, the Director determined that the record lacked evidence showing that the Petitioner's training program is an original contribution of major significance.

On appeal, the Petitioner relies on the letter from Mr. [ ] who mainly focuses on the Petitioner's success in jiu-jitsu competitions and refers to the Petitioner as "an exemplary figure in Jiu-Jitsu, whose dedication and expertise have greatly benefited our sport." However, Mr. [ ] does not state how the Petitioner has "greatly benefited" the world of jiu-jitsu, and more importantly, he does not identify an original contribution that the Petitioner has made or state how the Petitioner has contributed in a way that can be deemed as being of major significance in the field.

For the reasons discussed above, the Petitioner has not established that he has satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(v).

#### B. Reserved Issues

As previously noted, the Petitioner also asserts that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(iv), which requires evidence that he participated as a judge over the work of others in his field. However, because the Petitioner has not demonstrated that he meets three of the four evidentiary criteria claimed on appeal, he would not establish that he met three out of ten criteria even if we considered his claims regarding the criterion at 8 C.F.R. § 204.5(h)(3)(iv). As such, we need not determine whether he meets the requirements of this criterion, nor do we need to provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Accordingly, we will reserve these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

### III. CONCLUSION

The Petitioner has not shown that he met either a one-time award, or three of ten initial criteria. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); see also section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and that he is one of the small percentage who have risen to the very top of the field of endeavor. See section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

**ORDER:** The appeal is dismissed.